

AMENDED IN SENATE JUNE 30, 2016
AMENDED IN ASSEMBLY JANUARY 5, 2016
AMENDED IN ASSEMBLY MAY 4, 2015
AMENDED IN ASSEMBLY MARCH 16, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 73

Introduced by Assembly Member Waldron

December 18, 2014

An act to ~~add Section 14133.06 to the Welfare and Institutions Code, relating to Medi-Cal~~; amend Section 1710.2 of the Civil Code, relating to real property, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 73, as amended, Waldron. ~~Patient Access to Prescribed Antiretroviral Drugs for HIV/AIDS Treatment Act. Real property: disclosure.~~

Existing law requires certain disclosures to be made upon the transfer of residential property and prescribes the manner and form of the disclosures. Existing law provides that no cause of action arises against a real property owner or agent, or any agent of a transferee of real property, for the failure to disclose to the transferee the occurrence of an occupant's death upon the real property, as specified, or that an occupant of that property had or died from Human T-Lymphotropic Virus Type III/Lymphadenopathy-Associated Virus. Existing law declares the Legislature's intent to occupy the field of regulation of disclosure related to deaths occurring upon real property and of AIDS

in situations affecting the transfer of real property or any estate or interest in real property.

This bill would delete the prohibition against a cause of action arising for failure to disclose that an occupant of that property had or died from this virus. The bill would also delete the reference to AIDS from the declaration of legislative intent.

This bill would declare that it is to take effect immediately as an urgency statute.

~~Existing law establishes the Medi-Cal program, administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law specifies the benefits provided pursuant to the program, including the purchase of prescribed drugs that are covered subject to utilization controls. Utilization controls include a requirement that the treatment provider obtain prior authorization for providing medical treatment, as specified.~~

~~This bill, to the extent permitted by federal law, would provide that if medically necessary antiretroviral drugs used in the treatment of HIV/AIDS is prescribed by a Medi-Cal beneficiary's treating provider for that purpose, and coverage for that prescribed drug is denied by a Medi-Cal managed care plan in which the beneficiary is enrolled, that denial shall be reviewed in accordance with the bill. This bill would provide that if the treating provider demonstrates, consistent with federal law, that in his or her reasonable, professional judgment, the drug is medically necessary and consistent with the federal Food and Drug Administration's labeling and use rules and regulations, as specified, the beneficiary would be entitled to an automatic urgent appeal, as defined.~~

Vote: ~~majority~~^{2/3}. Appropriation: no. Fiscal committee: ~~yes~~^{no}. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1710.2 of the Civil Code is amended to
2 read:

3 1710.2. (a) No cause of action arises against an owner of real
4 property or his or her agent, or any agent of a transferee of real
5 property, for the failure to disclose to the transferee the occurrence
6 of an occupant's death upon the real property or the manner of

1 death where the death has occurred more than three years prior to
2 the date the transferee offers to purchase, lease, or rent the real
3 property, ~~or that an occupant of that property was afflicted with,~~
4 ~~or died from, Human T-Lymphotropic Virus Type~~
5 ~~III/Lymphadenopathy-Associated Virus.~~ *property.* As used in this
6 section, “agent” includes any person licensed pursuant to Part 1
7 (commencing with Section 10000) of Division 4 of the Business
8 and Professions Code. As used in this section, “transferee” includes
9 a purchaser, lessee, or renter of real property.

10 (b) It is the intention of the Legislature to occupy the field of
11 regulation of disclosure related to deaths occurring upon real
12 property ~~and of AIDS~~ in situations affecting the transfer of real
13 property or any estate or interest in real property.

14 (c) This section shall not be construed to alter the law relating
15 to disclosure pertaining to any other physical or mental condition
16 or disease, and this section shall not relieve any owner or agent of
17 any obligation to disclose the physical condition of the premises.

18 (d) Nothing in this section shall be construed to immunize an
19 owner or his or her agent from making an intentional
20 misrepresentation in response to a direct inquiry from a transferee
21 or a prospective transferee of real property, concerning deaths on
22 the real property.

23 *SEC. 2. This act is an urgency statute necessary for the*
24 *immediate preservation of the public peace, health, or safety within*
25 *the meaning of Article IV of the Constitution and shall go into*
26 *immediate effect. The facts constituting the necessity are:*

27 *AIDS patients and the AIDS community require a change in state*
28 *law to protect them from discrimination in real property*
29 *transactions that may otherwise impose severe emotional distress.*

30 ~~SECTION 1. This act shall be known, and may be cited as, the~~
31 ~~Patient Access to Prescribed Antiretroviral Drugs for HIV/AIDS~~
32 ~~Treatment Act.~~

33 ~~SEC. 2. Section 14133.06 is added to the Welfare and~~
34 ~~Institutions Code, to read:~~

35 ~~14133.06. (a) It is the intent of the Legislature in enacting this~~
36 ~~section that a Medi-Cal beneficiary shall have prompt access to~~
37 ~~medically necessary antiretroviral drugs for use in the treatment~~
38 ~~of HIV/AIDS that have been approved by the federal Food and~~
39 ~~Drug Administration for that purpose, including drugs that are not~~

1 on the formulary of a Medi-Cal managed care plan or that are
2 subject to prior authorization.

3 (b) To the extent permitted by federal law, if a drug used in the
4 treatment of HIV/AIDS as described in subdivision (a) is prescribed
5 by a Medi-Cal beneficiary's treating provider for the treatment of
6 HIV/AIDS, and coverage for that prescribed drug is denied by a
7 Medi-Cal managed care plan in which the beneficiary is enrolled,
8 that denial shall be reviewed in accordance with this section.

9 (c) (1) The denial by a Medi-Cal managed care plan of a drug
10 prescribed for the treatment of HIV/AIDS and approved by the
11 federal Food and Drug Administration for use in the treatment of
12 HIV/AIDS is subject to the urgent appeal process described in
13 paragraph (2) if the treating provider demonstrates, consistent with
14 federal law, that in his or her reasonable, professional judgment,
15 the drug is medically necessary and consistent with the federal
16 Food and Drug Administration's labeling and use rules and
17 regulations, as supported in at least one of the official compendia
18 identified in Section 1927(g)(1)(B)(i) of the federal Social Security
19 Act (42 U.S.C. Sec. 1396r-8(g)(1)(B)(i)), and the drug is not on
20 the formulary for the Medi-Cal managed care plan.

21 (2) In a case in which a plan denies coverage for a drug
22 prescribed for the treatment of HIV/AIDS and approved by the
23 federal Food and Drug Administration for use in the treatment of
24 HIV/AIDS, the beneficiary shall be entitled to an urgent appeal in
25 accordance with paragraph (1). For purposes of this section, "urgent
26 appeal" means an appeal in which the beneficiary, or treatment
27 provider with the consent of the beneficiary, requests an appeal
28 either orally or in writing. An urgent appeal shall be resolved by
29 the plan within 24 hours after the plan receives the request. The
30 24-hour period specified in this paragraph shall be in addition to
31 any time prescribed by federal law.